

ORDINANCE NO. _____

An ordinance amending Title 2 of the Metropolitan Code to create an affordable and workforce housing grant program.

WHEREAS, affordable and workforce housing is a primary concern of the citizens of Nashville and Davidson County, as it continues to be a major barrier to economic progress for many in Nashville; and

WHEREAS, increasing the supply of affordable and workforce housing supports economic growth and is an important tool in reducing poverty in Davidson County; and

WHEREAS, T.C.A. § 5-9-113 authorizes county legislative bodies to appropriate funds for affordable housing or workforce housing; and

WHEREAS, in the interest of promoting the general welfare of the residents of Metropolitan Nashville and Davidson County, it is appropriate that a grant program be developed whereby the Metropolitan Government may appropriate grant funds to an affordable housing development property owner to assist the funding of the development.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. Title 2 of the Metropolitan Code is hereby amended by adding the following new Chapter 2.213 – Affordable and Workforce Housing Incentive Grants.

2.213.010 Definitions.

As used in this Chapter:

“Affordable housing” means housing that, on an annual basis, costs thirty percent (30%) or less than the estimated median household income for households earning sixty percent (60%) or less than the median household income for Davidson County based on the number of persons in the household, as established by the “Median Household Income in the Past 12 Months by Household Size” from the most recently available United States Census Bureau American Community Survey.

“ECD” means the mayor’s office of economic and community development.

“Household” means all people who occupy a housing unit regardless of relationship. A household may consist of a family, a person living alone, or unrelated individuals living together, provided that no more than three unrelated persons shall occupy the same dwelling unit. In order

to be counted as an eligible household for purposes of affordable and/or workforce housing incentive grants, the total household income shall not exceed the median household income for the applicable affordable or workforce income category as defined in this section.

“OEOE” means the mayor’s office of economic opportunity and empowerment (OEOE).

“Qualified developer” means a developer of affordable and/or workforce housing that the metropolitan government determines is willing and able to enhance the affordable and/or workforce housing stock within Nashville and Davidson County by adding rental units at a certain price point.

“Urban Zoning Overlay (UZO)” means the urban zoning overlay district established pursuant to Article XII of Chapter 17.36 of the metropolitan zoning code.

“Workforce housing” means housing that, on an annual basis, costs thirty percent (30%) or less than the estimated median household income for households earning more than sixty percent (60%) and not to exceed one hundred twenty percent (120%) of the median household income for Davidson County based on the number of persons in the household, as established by the “Median Household Income in the Past 12 Months by Household Size” from the most recently available United States Census Bureau American Community Survey.

2.213.020 Incentive grants.

- A. The metropolitan government may make incentive grants to qualified developers to assist with the development of affordable and/or workforce housing within the boundaries of the metropolitan government. Incentive grants may be made both for rental developments and owner-occupied units. Such grant funds shall be disbursed on a reimbursement basis.
 1. Rental developments. Owners/developers of new construction rental developments, including developments under construction at the time of application, within the UZO or along a multimodal corridor designated in the Major and Collector Street Plan, excluding Expressways, Freeways, and Ramps may apply for a workforce and/or affordable housing incentive grant. The amount of the incentive grant will be the difference between the average rent for an occupied unrestricted rental housing unit and the average rent for an occupied affordable or workforce housing unit multiplied by the number of occupied affordable or workforce housing rental units for the duration that housing rental units remain affordable or workforce housing as defined in Section 2.213.010. The average rent for an occupied unrestricted rental housing unit will be calculated on a square footage basis using the rental charged for the three unrestricted units within the same development that are most comparable to each individual affordable or workforce housing unit. For purposes of this section, “average rent” includes all ancillary fees charged to all tenants of the development, including parking fees, application fees, associational fees, and charges for amenities.

2. Owner-occupied units. The amount of the incentive grant will be a one-time payment of \$10,000 per unit for properties located outside of the urban zoning overlay (UZO) district, and \$20,000 per unit for properties located within the UZO or along a multimodal corridor designated in the Major and Collector Street Plan, excluding Expressways, Freeways, and Ramps. All grants for owner-occupied units shall be conditioned upon the recording of deed restrictions with the Register of Deeds ensuring the units remain designated for affordable and/or workforce housing for the duration provided in the grant agreement.
- B. The amount of a grant to any one qualified developer of affordable or workforce housing rental units shall not exceed fifty (50) percent of the difference between the annual post-development and pre-development real property ad valorem tax assessment for the calendar year for which an incentive grant is applicable.
- C. Incentive grants may be awarded to a qualified developer for either affordable or workforce housing units, or both, provided OEOE shall take reasonable measures to ensure an equitable distribution of grant funds for both affordable and workforce housing.
- D. Any grant made in accordance with the provisions of this section will be memorialized by an agreement between the metropolitan government and the qualified developer. The maximum term for an incentive grant awarded pursuant to this chapter for rental units shall be fifteen (15) years. All owner-occupied units for which one-time incentive grant payments have been made shall be maintained as for-sale affordable/workforce housing for thirty (30) years from the date of initial occupancy. For new developments, the grant agreements shall be finalized prior to a building permit being issued.
- E. All grants awarded pursuant to this chapter shall be approved by the director of the OEOE, metropolitan director of finance, and the metropolitan director of law.

2.213.030 Standards for Construction and Occupancy of Affordable and/or Workforce Housing

- A. To ensure livability, the breakdown of bedroom counts of affordable or workforce housing units shall be similar to the breakdown of bedroom counts for the market rate units in the project.
- B. Exteriors of the affordable and/or workforce housing units shall closely resemble the exteriors of other units within the development, and shall use similar construction materials.

2.213.040 Incentive grants for the optional conversion of existing rental units.

Owners of existing rental housing developments shall be eligible for an annual incentive grant if they voluntarily convert market-based rental units located within the UZO to affordable and/or workforce housing units. Owners of existing affordable and/or workforce rental housing units shall also be eligible to receive an incentive grant if they agree to continue to maintain such units as affordable and/or workforce housing units. The amount of the incentive grant will be the difference between the average rent for market-based rental housing unit and the average rent for an occupied affordable or workforce housing multiplied by the number of occupied affordable or workforce housing rental units for the duration that housing rental units remain affordable or workforce housing as defined in Section 2.213.010. The average rent for market-based rental

housing unit will be calculated on a square footage basis using the rental charged for comparable unrestricted units within the same census tract that are most comparable to each individual affordable or workforce housing unit, as determined by OEOE. In no event shall the amount of the annual grant be greater than twenty percent (20%) of the real property ad valorem tax assessment for the calendar year for which an incentive grant is applicable.

2.213.050 Administration of grant program.

- A. The affordable and workforce housing grant program shall be administered by OEOE, with assistance from ECD, the finance department, the department of codes administration, and the planning department.
- B. OEOE shall have the authority and responsibility to develop policies, procedures, rules, and/or regulations to implement this chapter. Such policies shall include a mechanism for qualified developers to annually invoice OEOE for payment of the grant upon submission of an audit from an independent CPA firm.

2.213.060 Reimbursement requests.

- A. Not later than February 15 of each year, the grantor shall submit a reimbursement request to the department of finance and OEOE covering the previous calendar year. The reimbursement request shall include at a minimum for each occupied affordable and/or workforce housing rental unit:
 - 1. The number of months and partial months the unit was occupied;
 - 2. The Median Household Income level applicable to the unit;
 - 3. The rent charged for the unit; and
 - 4. The market value rent of the unit calculated based on the three closest comparable units on a square footage basis.
- B. The reimbursement request shall also include the total number of occupied affordable and/or workforce housing units in the development compared to the total number of affordable and/or workforce housing units required pursuant to the grant agreement, and the total reimbursement request for all occupied affordable and/or workforce housing rental units compared to the maximum annual grant allowed based on the property tax liability owed on February 28 of the year following the calendar year covered by the reimbursement request.
- C. The reimbursement request shall include a certification from the chief executive officer of the grantee that the information in the reimbursement request is true, correct and complete and that each occupied affordable and/or workforce housing rental unit was occupied only by eligible household members.
- D. The reimbursement request shall be accompanied by an examination conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants conducted by a reputable and licensed independent accountant giving an opinion that the amount of the incentive being requested represents, in all material respects, the incentive grant payment owed in conformity with the grant agreement. The

independent accountant shall examine, on a test basis, documentation supporting the eligibility of the occupants of the affordable and/or workforce housing units. Additional reporting and audit requirements may be specified in each grant agreement.

- E. The incentive grant payment shall be remitted to the developer by July 31 of each year and after the approval of the audit by the finance department.

2.213.070 Cap on total amount of grant awards.

Beginning with fiscal year 2017-2018, the annual amount of all current and previous grant awarded pursuant to this chapter in the aggregate shall not exceed two million dollars (\$2,000,000). The amount budgeted annually will be based upon audited reimbursement requests received. The director of finance and the director of the OEOE shall review the incentive grant program on an annual basis to determine whether the demand for grant funds significantly exceeds the amount of the cap, and shall make a recommendation to the metropolitan council regarding whether the amount of the cap should be adjusted. Any adjustments to the amount of the cap shall be approved by the council by resolution prior to becoming effective.

2.213.080 Noncompliance.

In the event a grantee developer fails to provide the number of affordable and/or workforce units required for the specified grant term pursuant to the grant agreement, the director of finance shall have the authority to require the grantee to repay the metropolitan government for all grant funds disbursed for affordable and/or workforce housing units in accordance with the provisions of the grant agreement. The director of finance shall have the authority to pursue all other remedies at law or in equity to ensure the availability of the affordable and/or workforce housing units required under the grant agreement.

2.213.090 Grants subject to funding availability.

All agreements for affordable and/or workforce housing incentive grants to be funded by the metropolitan government shall expressly provide that the metropolitan government's financial obligations thereunder are conditioned upon the appropriation of funds by the metropolitan council. The metropolitan government shall have no obligation to make an affordable and/or workforce housing incentive grant if adequate funds are not available. If an incentive grant payment is not made as a result of lack of funding pursuant to this section, the grantee shall be relieved from the obligation to maintain the required number of affordable and/or workforce housing units.

2.213.100 Sunset provision.

The provisions of this chapter shall expire and be of no further force and effect on October 1, 2018, unless extended by resolution of the metropolitan council. If the provisions of this chapter are not extended by resolution of the metropolitan council, no incentive grants shall be awarded

after October 1, 2018. This sunset provision shall not operate to terminate any existing grant agreement in effect on October 1, 2018, except for a lack of available funds in accordance with Section 2.213.090.

Section 2. That this Ordinance shall take effect immediately after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

APPROVED AS TO
AVAILABILITY OF FUNDS:

INTRODUCED BY:

Talia Lomax-O'dneal
Director of Finance

APPROVED AS TO
FORM AND LEGALITY:

Metropolitan Attorney

Members of Council